

## **FULL RELEASE OF ALL CLAIMS**

### **1. Parties, Release, and Discharge:**

THIS SETTLEMENT AGREEMENT AND RELEASE OF ALL CLAIMS (hereafter identified as "Release") is entered into between the Releasors and Releasees for consideration specifically set forth in subparagraphs (A) through (D) of paragraph 1 of this instrument and no other consideration other than what is specifically provided herein.

Julio Cesar Caballero Barraza and Sarahi Rivera Flores and their minor children, respective agents, attorneys, heirs, successors, assigns, personal representatives, employees, and any persons or parties subrogated to their rights and any persons or parties having any rights of representation through them, (all of whom are hereinafter referred to collectively as Releasors), forever release and discharge the State of New Mexico, the New Mexico State Police, the New Mexico Department of Public Safety, Gordon E. Eden, Gregory Fouratt, Chief Chris Kassetas, Chief Robert Shilling, Deputy Chief [formerly Major] David Martinez, Captain Juan Martinez, Joey Gallegos, Michael Dias, Sgt. Chris Valdez, Lorenzo Aguirre, Mark D. Jarmie, Mark D. Jarmie LLC d/b/a Jarmie & Associates, Michael Dickman, Law Office of Michael Dickman, Robert Doughty, Doughty, Alcaraz & DeGraauw PA, Henry Narvaez, Narvaez Law Firm, Ned Fuller, the State of New Mexico Risk Management Division and their respective heirs, including any unnamed officers, agents, predecessors, successors, assigns, contractors, consultants, executors, attorneys, administrators, personal representatives, insurers, risk managers, adjusters, corporations, officers, directors and shareholders of any corporations, partners, partnerships, professional associations, employers, employees, and insurers (all of whom are hereinafter referred to collectively as "Releasees") from any and all claims, demands, damages, suits or causes of action of whatsoever kind or nature, which are or could have been raised by Releasors related in any way to the events occurring prior or subsequent thereto prior to the date of this Agreement, or which are or could have been raised in a lawsuit filed in the United States District

Court for the District of New Mexico, captioned *Julio Cesar Caballero Barraza and Sarahi Rivera Flores, Plaintiffs, v. New Mexico Department of Public Safety, Gordon E. Eden, Secretary of Department of Public Safety in his individual and official capacities, New Mexico State Police, Chief Robert Shilling in his individual and official capacities, Major David Martinez of the Investigations Bureau in his individual and official capacities; Captain Juan Martinez in charge of the North Zone investigations Bureau in his individual and official capacities; and Sergeant Chris Valdez in his individual and official capacities, Agent Lorenzo Aguirre in his individual and official capacities, Agent Joey Gallegos in his individual and official capacities, and Officer Michael Dias in his individual and official capacities, Defendants*, 1:13-cv-01007 SCY/SMV (hereinafter "Complaint"), or for any event which relates in any way to said lawsuit, including but not limited to any and all claims for personal injury; for past, present and future medical, hospital and related expenses; for past, present and future mental and physical anguish, pain and suffering; for scarring and disfigurement; for false arrest; for false imprisonment; for wrongful detention of any kind; for unlawful entry; for unlawful search and seizure; for any claims related in any way to Releasors' immigration status or for any alleged interference, compromise, or effect thereof; for past, present and future physical, psychological and mental impairment or disability; for punitive or exemplary damages; for claims of violations of civil rights, for claims of attorney fees under the Civil Rights Act; for any claims of whatsoever kind or nature which are or could have been made pursuant to 42 U.S.C. §1983 or any other claim related to Releasor's civil rights; for claims of violation of the New Mexico Tort Claims Act including claims for assault, battery, false imprisonment, conversion, trespass and/or intentional infliction of emotional distress; for interest, costs, and attorney's fees; for lost wages; for claims of any type of discrimination; for claims of failure to train, supervise,

for lost wages; for claims of any type of discrimination; for claims of failure to train, supervise, administer, or investigate; for claims of wrongful or negligent hiring, supervision or retention; for loss of pension or other benefits; for breach of either express or implied contract; for intentional or negligent infliction of emotional distress; for any and all tort claims; for claims of violation of any statute, duty, regulation, or other provision of law or of the common law; and for any other claims of whatsoever that Releasor has or may have against Releasees, taking place prior to the date of this Agreement.

The Consideration for this Release is as follows:

**A. Payments**

Releasors shall receive as full and final settlement the total sum of two hundred fifty thousand dollars (\$250,000.00) payable in the form of check made to "Noble & Vrapı, P.A."

**B. Nature of Payments**

The sums designated in subparagraph (A) above is in compensation to Releasors for businesses losses in the amount of \$8,000.00, with the remaining balance of \$242,000.00 in compensation for personal and physical injuries that Releasor has or may have against Releasees, related to or arising from the incidents and events more particularly described in Paragraph 1 above, and which sum is hereby paid on behalf of all Releasees in exchange for which, Releasors fully release and discharge all Releasees as set forth in Paragraph 1 of this instrument.

**C. Full Release**

Releasors shall fully release, from all past, present or future claims, causes of action, liabilities, debts and demands, whether in law or equity, known or unknown, mature or immature, asserted or not, which Releasors now have or which may in the future accrue or be

any action, claim or lawsuit of any kind whatsoever against Releasees for anything related to or arising from those incidents and events more particularly described in Paragraph 1 of this instrument;

**D. Medical bills and subrogation**

The payment of any unpaid medical bills, liens, and/or subrogation claims is the sole responsibility of Releasors. The undersigned agree to pay any outstanding medical bills, liens, and/or subrogation claims resulting from the events more particularly described in Paragraph 1 above.

The undersigned agree to pay any outstanding medical bills, liens, and/or subrogation claims and agrees to indemnify Releasees against any and all claims that may be asserted in the future for the payment of medical bills or liens that have been or will be incurred by the undersigned, and/or subrogation claims, and agrees to reimburse Releasees for the cost of the defense of any claim that might in the future be asserted against them due to the failure of the undersigned to honor any medical liens and/or subrogation claims arising from the incidents described and set forth in paragraph 1 of this Agreement..

The undersigned expressly warrants that he and she are the appropriate persons to execute this Release of All Claims on his own behalf and representative capacities and that he enters into this Full and Final Release of All Claims with the capacity to execute this Release. The undersigned further represents that he is unaware of any other individual with a legal claim to the proceeds of this Release of All Claims including, but not limited to, any health insurer interest as defined by *US Airways, Inc. v. McCutchen*, 133 S. Ct. 1537 (2013).

**E. Medicare and Medicaid**

The undersigned expressly warrants and represents that although he is or may be eligible

to receive benefits under a health care program provided, or funded in whole or in part, by Medicare or Medicaid, no portion of any expenses heretofore incurred, or reasonably expected to be incurred, shall at any time, or for any reason, be presented for payment or reimbursement to any such Medicare or Medicaid program. The undersigned acknowledge that a copy of this Release may be provided to the authorized representative of the Centers for Medicare & Medicaid Services.

**F. Tax Liability**

The Releasors understand that of the total amounts received under the terms of this Release (\$250,000), \$8,000.00 is in compensation for business losses suffered, with the remaining balance, \$242,000.00, received in compensation for damages on account of personal physical injury, as set forth more fully in 26 U.S.C. § 104(a)(2).

Releasees make no representation as to the reasonableness of the allocation of these amounts or to any tax consequence incurred as a result of this Agreement.

Releasors understand and agree that any and all tax liability, which may be due or become due because of the payment referenced above is their sole responsibility, and that they will pay any such taxes which may be due or become due. Releasees have no monetary liability or obligation regarding payment whatsoever other than delivering a valid check in the above-referenced sum to Releasors' counsel. Releasors agree to bear all tax consequence, if any, attendant upon the payment to her of the above-recited sums.

**2. Release of All Claims:**

It is understood and agreed that this Release includes any matters related to or inherent in the issues in said charges referred to above, including any claim, demand, action or cause of action which could have been asserted in any charge, complaint, or other legal, judicial, or

administrative action for anything related to or arising from those incidents and events more particularly described in Paragraph 1 of this instrument, and that upon the payment of the consideration set forth in this Release in Full, Releasors, through their attorneys, will cause this action to be dismissed with prejudice, with each party bearing its own costs and attorney fees.

**3. Full Settlement and Satisfaction:**

Releasors hereby acknowledge full settlement and satisfaction of all claims of whatever kind or character which they may have against the parties herein for anything related to or arising from those incidents and events more particularly described in Paragraph 1 of this instrument, released by reason of the above mentioned damages, losses or injuries.

**4. No Admission of Liability:**

Releasors further understand that Releasees, by agreeing to this compromise and settlement, do not admit any liability of any kind and that liability has at all times been denied, and that the settlement evidenced by this instrument is a compromise to avoid further expenses of litigation and to terminate all controversy and claim against Releasees of whatsoever nature, known or unknown, including further developments thereof in any way growing out of or connected with the incidents or matters described more particularly in Paragraph 1 of this instrument.

**5. No Representation of Fact or Opinion:**

Releasors understand that no representation of fact or opinion has been made by Releasees or anyone on their behalf to induce this settlement, and that Releasees have made no agreement of any kind or promised to do or omit to do any act or thing not herein set forth.

**6. Release of All Known and Unknown Damages:**

Releasors expressly represent and declare that, notwithstanding the damages or injuries known at this time or which may be subsequently discovered by Releasors, compensation for all known and unknown damages sustained by Releasors as a result of the aforesaid incidents and events are included in the consideration paid for this Release. This settlement therefore represents the compromise agreement to conclude, with finality, disputed claims.

The parties represent that they have entered into this Agreement as a result of their own investigations and judgment, and not in reliance upon any representation, promise, statement or warranty made by, or on behalf of or imputable to the other parties, and that all prior negotiations, promises, disclosures or failures to disclose, agreements, discussions, descriptions or inducements, whether written or oral are deemed to have been merged into and superseded by this Agreement.

**7. No Claim of Estoppel as to Releasees:**

Furthermore, it is the express intent of the Releasors and Releasees to release all claims that they may have against each other, and that the Releasees herein shall not be estopped or otherwise barred from asserting any claim or cause of action which they may have against any other person or entity with the exception of the Releasors, this right of Releasees being expressly reserved herein.

**8. Release Fully Binding:**

Releasors further agree that this Release shall be binding upon their heirs, executors, personal representatives, administrators, assigns, agents, employees, and any and all persons or entities which are or may be subrogated to the rights of the Releasors, or which may have any rights of representation through the Releasors. All agreements and understandings between the

parties are embodied and expressed herein and the terms of this Release are contractual and are not a mere recital.

**9. Warranty of Capacity to Execute Agreement:**

The Releasors represent and warrant that no other person or entity has or has had any interest in the claims, demands, obligations, or causes of action referred to in this Release except as otherwise set forth herein, that Releasors have the sole right and exclusive authority to execute this Release and receive the sums specified in it, and that Releasors have not sold, assigned, transferred, conveyed, or otherwise disposed of any claims, demands, obligations, or causes of action referred to in this Release.

Releasors warrant and represent that Julio Cesar Caballero Barraza and Sarahi Rivera Flores have full capacity to enter into this Agreement, are legally competent to do so, and that no claims or demands will be made to the contrary.

**10. Costs and Attorneys' Fees:**

Each party hereto shall bear all attorney's fees and costs arising from the actions of its own counsel in connection with the Complaint, this Release and the matters and documents referred to herein, the filing of a Dismissal of the Complaint, and all related matters.

**11. Governing Law and Enforcement:**

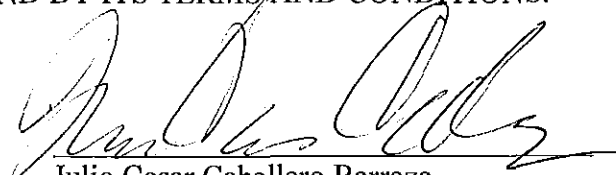
This Release shall be construed and interpreted in accordance with the laws of the State of New Mexico. This Agreement shall be construed based upon its terms and shall not be construed in favor of one or another party based upon the drafting thereof.

Any disputes concerning this Agreement shall be resolved in the Court in which the underlying Action was filed.




**12. Representation of Comprehension of Release:**

RELEASORS HAVE FULLY READ THE FOREGOING RELEASE, FULLY UNDERSTAND IT, HAVE RELIED UPON THE LEGAL ADVICE OF ATTORNEYS OF THEIR OWN CHOOSING IN ACCEPTING AND UNDERSTANDING THE RELEASE, ACKNOWLEDGE THAT THE TERMS AND CONDITIONS OF THE FOREGOING RELEASE HAVE BEEN FULLY EXPLAINED BY THEIR OWN ATTORNEYS, AND VOLUNTARILY AGREE TO BE BOUND BY ITS TERMS AND CONDITIONS.

  
Julio Cesar Caballero Barraza

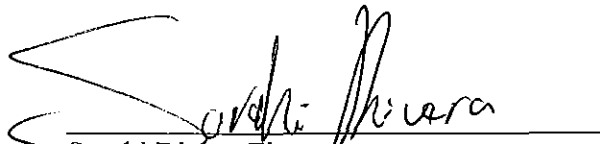
STATE OF NEW MEXICO )  
 ) ss.  
COUNTY OF Santa Fe )

19th The foregoing Release was subscribed, sworn to and acknowledged before me this day of August, 2014 by Julio Cesar Caballero Barraza.

  
Notary Public

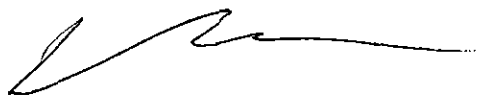
My Commission Expires: 10/4/15



  
Sarahi Rivera Flores

STATE OF NEW MEXICO )  
 ) ss.  
COUNTY OF Santa Fe )

19th The foregoing Release was subscribed, sworn to, and acknowledged before me this day of August, 2014 by Sarahi Rivera Flores.



Notary Public

My Commission Expires: 10/4/15

